

Public Act 92-0310, effective August 9, 2001, amended the definition of "delivering supplier" in Section 2-3 of the Electricity Excise Tax Law to exclude BOMAs. Therefore, BOMAs are required to pay the appropriate amount of tax to their suppliers and are not required to file returns or remit tax directly to the Department after that date. See 86 Ill. Adm. Code 511.100. (This is a GIL.)

May 9, 2002

Dear Xxxxx:

This letter is in response to your letter dated April 17, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Senate Bill 0761, now Public Act 92-0310, (effective 8/9/01), eliminates the requirement for reseller buildings to file separate electricity excise tax return with the State of Illinois Department of Revenue.

A group of approximately 10 buildings to which we resell electricity are all under Rider 12. They all pay state tax on their ComEd bill. Does this mean that none of these buildings have to file a separate electricity excise tax return for the taxes collected from the individual tenants?

Do you have to be a BOMA member for this Public Act 92-0310 to apply?

On enclosed page, what does the date January 2, 1957 have to do with the definition of "Delivering Supplier"?

DEPARTMENT'S RESPONSE:

Public Act 92-0310, effective August 9, 2001, amended the definition of "delivering supplier" in Section 2-3 of the Electricity Excise Tax Law. 35 ILCS 640/2-3; See also the enclosed copy of 86 Ill. Adm. Code 511.100. Entities engaged in the practice of resale and redistribution of electricity within a building prior to January 2, 1957 were excluded from the definition of delivering supplier(s). This means that such entities are treated for Electricity Excise Tax purposes in the same manner as other purchasers or customers of an electricity supplier. Those entities are required to pay the

appropriate amount of tax to their suppliers and are not required to file returns or remit tax directly to the Department.

You have asked what the date of "January 2, 1957" has to do with the definition of a delivering supplier. This date conforms with the requirements set out in the Illinois Commerce Commission's Rider 12 "Conditions of Resale or Redistribution of Electricity by the Customer to Third Persons." Entities that fall within the requirements of Rider 12 will qualify for this exclusion from the definition of "delivering supplier." Those entities will therefore be allowed to pay tax directly to their suppliers rather than filing returns and remitting the tax directly to the Department as described above. Such entities are not required to be a member of the Building Operators Management Association (BOMA) for the provisions of Public Act 92-0310 to apply.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
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TDC:msk
Enc.